THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 13839 of 2005

Dated: 16-08-2005

Between:

T.Laxmaiah, s/o Sri Durgaiah,
r/o Gottimukkula Village, Shankarampet Mandal, Medak District.

..... PETITIONER

AND

District Collector, Sangareddy, Medak District.

.....RESPONDENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITON No :13839 of 2005

ORDER:

This writ petition has been filed by T.Laxmaiah, Sarpanch, Gram Panchyat of Gottimukkula Village with a prayer to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the District Collector, Sanga Reddy, Medak District-respondent in keeping the petitioner under suspension from the post of Sarpanch in proceedings No.38/2005/A2-Pis, dated 15-6-2005, as illegal, arbitrary and without jurisdiction.

2. The petitioner was Sarpanch of Gottimukkula Gram Panchyat of Sankarampet (A) Mandal. A show cause notice dated 7-1-2005 was issued to him by the District Panchyat Officer, Medak at Sanga Reddy calling for his explanation within seven days, regarding misuse of Gram Panchyat funds, as to why he should not be prohibited from drawing the funds of Gram Panchyat. He submitted explanation on 28-3-2005. While so, the District Collector issued show cause notice dated 20-4-2005 exercising the powers under Section 249 (6) of the A.P.Gram Panchyat Act, 1994 (for short the 'Act') to the petitioner as to why he should not placed under suspension for misuse of SGYR funds to the tune of Rs.24,882/- pending enquiry. The petitioner did not submit any explanation and consequently an order came to be passed by the District Collector, Sangareddy, Medak District on 15-6-2005, keeping the petitioner under suspension for a period of three months with immediate effect, pending further action on the allegations leveled against him. Assailing the order of the District Collector passed in proceedings No.38/2005/A-2-Pis dated 15-6-2005, this writ petition has been filed.

3. The respondent filed counter affidavit. It is stated in the counter affidavit that a show cause notice has been issued to the petitioner as to why he should not be suspended and as the petitioner failed to submit any explanation, the order impugned in the writ petition came to be passed. Para 5 of the counter affidavit needs to be noted and it is thus:-

> "It is further submitted that this respondent passed orders of suspension on 15-6-2005, the petitioner failed to file his explanation to the show cause notice dated 20-4-2005 and the contention of the petitioner that the allegations in show cause notice issued by the District Panchyat Officer and the District Collector are one in the same is of no relevance as these notices have been issued under two different provisions by tow different authorities. Therefore the petitioner is bound to file explanation in both the notices."

4 . Heard counsel appearing for the petitioner and the Government Pleader for Panchyat Raj appearing for the respondent.

5. The learned counsel appearing for the petitioner submits that the District Panchyat Officer, based on certain allegations, issued show cause notice proposing withdrawal of cheque drawing power and there upon the petitioner submitted his explanation to the said show cause notice, and thus the respondent-District Collector is not justified to take separate action based on the self same allegations. His further contention is that two authorities taking action on the self same allegations amounts to double jeopardy and thus the impugned proceedings issued by the District Collector are to be declared as null and void.

6. The learned Government Pleader for Panchyat Raj appearing on behalf of the respondent submits that the District Panchyat Officer has issued show cause notice under the provisions of G.O.Ms.No.30 of 1995 and whereas, the District Collector issued show cause notice in exercising the powers under Section 249 (6) of the Act and therefore, the action initiated by the District Collector cannot be categorized as double jeopardy. Under Rule 41 of the Gram Panchyat Rules framed in G.O.Ms.No.30 PRRD and R, dated 21-2-1995, the drawing of monies by the executive authority shall be subject to the control of, and the conditions laid down by the District Panchyat Officer concerned and under Rule 42, the District Panchyat Officer concerned may, for sufficient reasons to be recorded in writing, prohibit by an order any executive authority from drawing the monies of the Gram Panchayat for

such period as may be specified in such order. So far as the District Collector is concerned, he can initiate action under Section 249 (6) of the Act, if he is of the opinion that further continuance of Sarpanch would be detrimental to the interest of the concerned for the local body or the inhabitants of the village pending investigation to the charges and action thereon. Therefore, the initiation of the proceedings of the District Collector under Section 249 (6) does not amounts to double jeopardy. Since the proceedings have been initiated by the Collector under Section 249 (6) of the Act as long as 15-6-2005, the maximum period the Collector could keep the petitioner-Sarpanch is three months and that period is going to be expired very shortly. Such is the situation, I deem it appropriate to direct the respondent to complete the enquiry within one month from the date of receipt of a copy of this order and pass appropriate orders. No costs.

7. Accordingly, the writ petition is disposed of. No costs.

_____

16th August, 2005.

mrb